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September 20, 2013

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SEP 20 2013

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VIA HAND DELIVERY

Federal Communications Commission
Office of the Secretary

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: WC DOCKET NO. 10-90 and WT DOCKET NO. 10-208 BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Adak Eagle Enterprises, LLC and Windy City Cellular, LLC – Notice of Ex Parte**

Dear Ms. Dortch:

On behalf of Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”), pursuant to the procedures outlined in the Third Protective Order adopted in the above referenced proceedings, please find enclosed an original and one copy of AEE and WCC’s public version of their Notice of Ex Parte. The [[]] symbols denote confidential information. A confidential version is being filed separately with the Secretary’s Office. Additional copies of the confidential version also are being delivered to the Wireline Competition Bureau.

Should you have any questions concerning the foregoing request, please contact the undersigned.

Sincerely,



Monica S. Desai
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Counsel for Adak Eagle Enterprises, LLC and
Windy City Cellular, LLC

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte: WC Docket Nos. 10-90 and WT Docket No. 10-208
Application for Review and Petition for Reconsideration – Adak Eagle
Enterprises and Windy City Cellular**

Dear Ms. Dortch:

On September 17, 2013, the undersigned, counsel to Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”), met with the following FCC staff: Carol Matthey, Michael Jacobs, Amy Bender, Travis Litman, Joseph Sorresso, Christopher Cook, and Chin Yoo from the Wireline Competition Bureau; and Scott Mackoul and Jane Jackson from the Wireless Telecommunications Bureau. Andilea Weaver, Chief Operations Officer of AEE and WCC, joined the meeting by phone. The discussion focused on the Petition for Reconsideration and Application for Review filed by AEE and WCC,¹ as well as AEE’s and WCC’s replies to the Opposition filed by General Communication, Inc. (“GCI”).²

The companies expressed hope that the drastic cost cuts they made will be significant enough to persuade the Bureaus to reconsider their denial, and pledged to quickly provide the additional information requested during the meeting. The companies stressed that they want to survive and continue providing quality service to consumers on Adak, and would like to be able to participate in the Mobility Fund. The companies noted that GCI service was recently out from September 12 to September 18. This should be of concern to the Commission, particularly from a public safety perspective. Meanwhile, the companies are exploring options of filing for bankruptcy, and also exploring whether they can stay afloat by adopting GCI’s scheme of collecting universal service support for multiple lines per customer. Further information regarding all of this is below.

¹ See Application for Review of AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Application for Review”); Petition for Reconsideration of AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Petition for Reconsideration”).

² See Opposition of General Communication, Inc. to Adak Eagle Enterprises’ and Windy City Cellular’s Application for Review and Petition for Reconsideration, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 30, 2013) (“GCI Oppositions”); see also Reply to Opposition to Application for Review, AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Sept. 9, 2013); Reply to Opposition to Petition for Reconsideration, AEE and WCC, WC Docket No. 10-90 and WC Docket No. 10-208 (filed Sept. 9, 2013) (“Reply to Opposition to Petition for Reconsideration”).



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We emphasized that there was no actual opposition to the companies' Petition for Reconsideration. While GCI submitted a filing styled as an opposition to both the Application for Review and Petition for Reconsideration, the "opposition" did not actually address, much less contest, any of the substantive points raised in the Petition for Reconsideration. As explained in the Petition for Reconsideration, AEE and WCC have taken drastic measures to comprehensively address each of the concerns raised by the Bureaus in the *Order* denying the companies' waiver petitions.³

AEE and WCC are working as quickly as possible to gather the additional forecasts, data and other information requested by staff, but because of staff reductions it is difficult to turn the information around as quickly as they had in the past. The companies do, however, provide some initial information below.

1. Compensation.

Staff asked whether vacation payouts should be included when comparing AEE and WCC executive salaries to NTCA survey data. We researched this question and confirmed with NTCA that the salary comparison charts in its survey specifically reflect only "base pay" and do not include vacation payouts.⁴ Accordingly, to compare consistently with the NTCA figures cited by the Bureau in the denial *Order*,⁵ the companies also excluded vacation payouts in the pay comparison charts submitted with their Petition for Reconsideration.

2. Organizational structure of the companies.

AEE and WCC explained in their Petition for Reconsideration that they slashed their operating costs, in part by cutting their original staff from 19 full-time employees down to 10 full-time employees and one part-time janitorial employee.⁶ Since filing their Petition for Reconsideration and replies to GCI's opposition, however, the companies have lost an additional employee, the Customer Service Representative, who also maintained front desk functions. She resigned due to the companies' instability resulting from the waiver process. As a result, customers now must call the companies' 800 number to purchase services or request support, and the companies' only technician is responsible for handing out all customer equipment on Adak Island. While AEE and WCC are attempting to fill this position, the companies have not yet received any applications for the position. The uncertainty surrounding whether the companies will survive has made it difficult to recruit candidates.

³ See Petition for Reconsideration at 2; see also *Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules*, Order, 28 FCC Rcd 10194 (2013) ("*Order*").

⁴ See NTCA 2012 Survey of Compensation and Benefits in the Independent Telecommunications Industry, Appendix A, Survey Instrument (June 2012) at 6 ("For each full-time employee, report the January 1, 2012, rate of pay – either the hourly rate or the annual rate. Do not include overtime pay, cash bonuses, or any compensation other than base pay.") and 10 ("What is the General Manager's current annual base pay effective January 1, 2012?").

⁵ See *Order*, ¶ 28.

⁶ See Petition for Reconsideration at 6.



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Additionally, AEE and WCC have reduced their five hourly, full-time employees from 40 hours to 32 hours per week.⁷ The organizational charts attached at Exhibit 1 illustrate which jobs have been eliminated through the course of the waiver process. The charts reflect that in 2011 there were 19 employees, that this number dropped to 13 in 2012, and that now there are only nine full-time employees and one part-time janitorial employee remaining. Per staff request, the confidential version of the chart contains the names and titles of each employee, and indicates which positions have reduced hours.

3. AEE's RUS loan.

Staff asked whether the Rural Utilities Service ("RUS") would be willing to restructure AEE's loan. We explained RUS will not have a discussion with AEE regarding any restructuring of its debt until the occurrence of a triggering event, such as AEE declaring bankruptcy or running out of money to make its loan payments.

Additionally, in response to staff questions regarding AEE's recent repayment of funds to RUS, we explained that RUS had loaned the funds to AEE to construct the warehouse that is needed to house equipment, vehicles, and maintenance operations in a heated facility protected from the severe weather conditions on Adak Island.⁸ Because of the Bureaus' denial of AEE's and WCC's waiver petitions, AEE repaid these funds to RUS as of September 6, 2013.⁹

4. The companies' cash balances.

The companies will be submitting additional information to address staff's questions regarding this category.

5. Questions regarding operations.

The companies will be submitting additional information to address staff's questions regarding this category.

6. Company vehicles.

Staff questioned whether the companies could decommission any of their vehicles in order to reduce insurance costs. We explained that AEE needs permission from RUS before decommissioning any vehicles. AEE is evaluating how much in insurance costs could be saved by decommissioning vehicles and will provide this information to staff.

⁷ See Petition for Reconsideration at 6.

⁸ See Petition for Reconsideration at 11.

⁹ See Reply to Opposition to Reconsideration at 2-3.



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We also reiterated that the Bureaus have a responsibility to ask what GCI means when it says it provides 911 service. As explained in the Application for Review, GCI's 911 service is inadequate and unreliable.¹⁰ Unlike AEE, GCI does not help emergency responders identify and find 911 callers. Moreover, whereas AEE and WCC work closely with the City of Adak to provide prompt, reliable 911 assistance – and have technicians on Adak Island to support its 911 service – GCI has a history of being unresponsive when asked by the City for assistance with its service and has no technicians on the Island to respond to service outages. Additionally, unlike AEE and WCC, GCI does not pay any 911 fees to support Adak's basic 911 system. This Commission in particular should find the poor quality of GCI's 911 service troubling, given its focus on ensuring the reliability of 911 service.¹¹

As a recent example of GCI's poor service quality, we mentioned that a storm on Adak Island resulted in a GCI service outage from September 12 to September 18, leaving GCI's customers without service during this time. In contrast, WCC's wireless service did not experience any outage. Unlike AEE and WCC, GCI does not have a technician on Adak Island, so the company instead relies on an Adak resident, who is not trained as a technician, to respond to such service outages, despite the fact that such repair work can present significant safety hazards if attempted by one individual alone. Strikingly, GCI was only able to contact this resident regarding the service outage by calling him using WCC's service. The unreliability of GCI's service is particularly important to consider in the context of 911 service.

The poor, unreliable quality of service that consumers on Adak Island would be left with should AEE and WCC go bankrupt is further reflected in the declaration of the Harbor Master at the Port of Adak, Elaine Smiloff, which was submitted with AEE's and WCC's ex parte of September 12, 2013.¹² Ms. Smiloff emphasized the crucial need for reliable cell service on Adak to receive calls from vessels when they are in distress, and her inability to rely on GCI service to receive critical calls because "GCI service is sporadic, reception is poor, and there are many dead spots in GCI's service at the harbor." She contrasted this with WCC's service, which is "consistent with good reception." She also explained that she lives in Kuluk, about 1 mile from GCI's antenna, and even there, GCI service "is sporadic and reception is poor." She recalled an incident when there was a search for an individual who was lost in blizzard conditions, who called for 911 help. During that emergency, "WCC phones worked while GCI phones were unable to get service."

Finally, based on AEE's and WCC's current cash reserves, we explained that, without a fairly quick reversal of the denial *Order*, the companies will have to begin a complicated and expensive wind-down process. This process will include seeking permission to shut down from the Commission as well as the Regulatory Commission of Alaska, negotiating with RUS regarding their debt, and going through the customer notification process. Other factors that will impact how long the companies

¹⁰ See Application for Review at 5, Exhibit 4 (Second Declaration of Layton J. Lockett).

¹¹ See Application for Review at 5.

¹² See Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Sept. 12, 2013).



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can last include fuel prices (which increase with each fuel barge shipment) and the cost of power (the power company has recently increased prices by 60%), in addition to other expenses that inevitably arise due to the unpredictable and volatile climate on Adak Island. AEE is exploring bankruptcy options, and will be providing additional details regarding this soon.

In addition to exploring bankruptcy, WCC also is exploring the possibility of adopting GCI's practice of selling, and receiving compensation for, multiple lines per customers on Adak Island. WCC is analyzing the applicable FCC rules and will be certain to comply with whatever standard apparently allows GCI to collect support for multiple lines per customer. WCC is exploring how many lines per customer it would need to sell in order to collect enough USF support to continue operations without a waiver, what counts as "use" sufficient to obtain support, and whether it should, like GCI, save money by not supporting 911 service on Adak Island.

Respectfully submitted,

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 Joseph Sorresso
 Jamie Susskind
 Julie Veach
 Margaret Wiener
 Chin Yoo

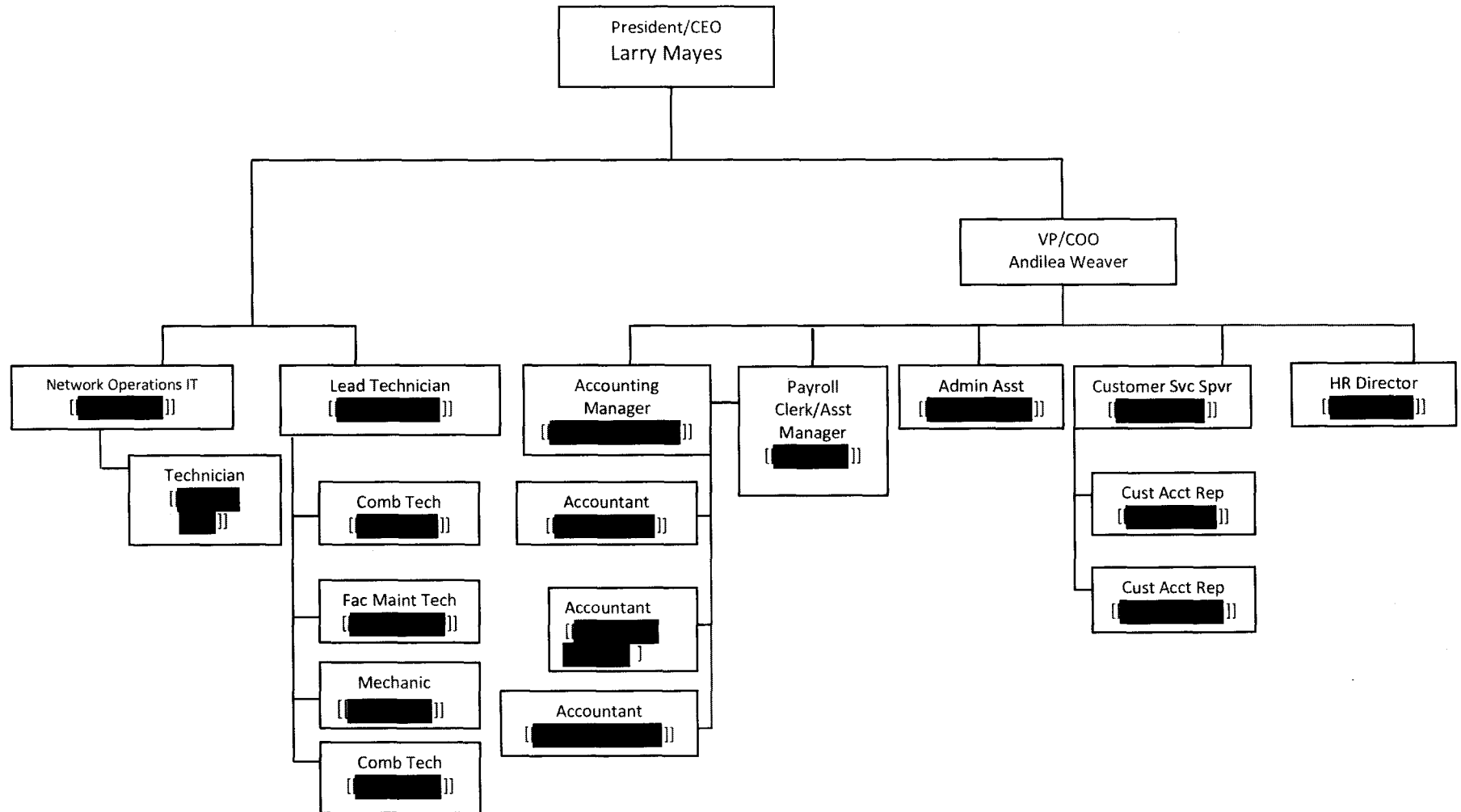
Exhibit 1

Organizational Charts
2011-2013

Adak Eagle Enterprises, LLC

dba: Adak Telephone Utility

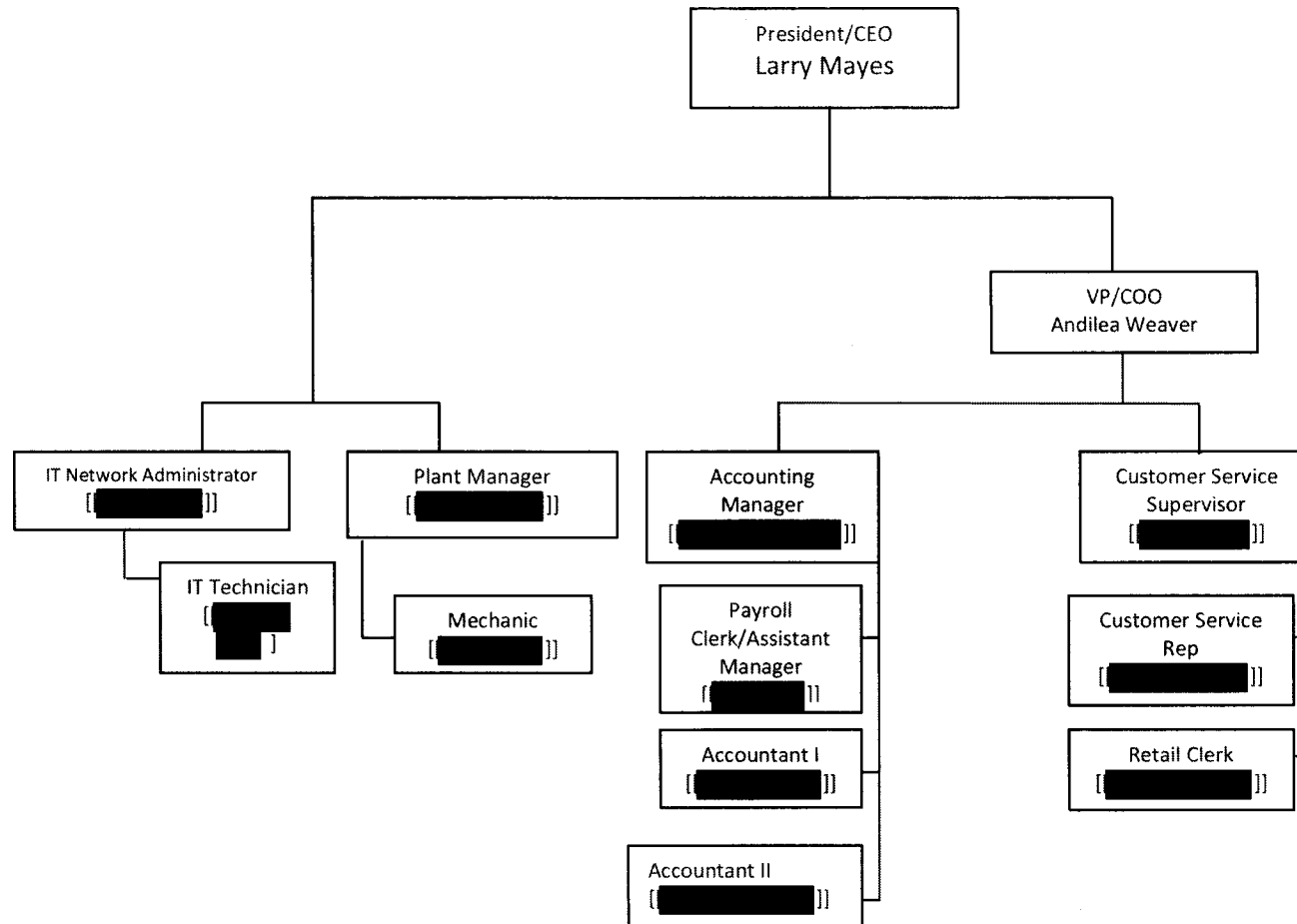
December 31, 2011



Adak Eagle Enterprises, LLC

dba: Adak Telephone Utility

December 31, 2012



Adak Eagle Enterprises, LLC

dba: Adak Telephone Utility

September 20, 2013

